AMENDED IN ASSEMBLY JANUARY 5, 1998

AMENDED IN ASSEMBLY APRIL 15, 1997

AMENDED IN ASSEMBLY APRIL 10, 1997

AMENDED IN ASSEMBLY MARCH 31, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL   No. 583

Introduced by Assembly Member Davis

February 25, 1997

An act to add and repeal Chapter 26.5 (commencing with Section 22765) of Division 8 of the Business and Professions Code, relating to computer services. *An act to amend Section 890 of the Civil Code, and to add Section 602.9 to the Penal Code, relating to rent skimming.*

LEGISLATIVE COUNSEL'S DIGEST

AB 583, as amended, Davis. Internet service providers *Residential real property: trespass: rent skimming.*

Existing law defines rent skimming as the use of revenue from the rental of a parcel of residential property during the first year after acquiring the property without first applying the revenue or an equal amount to payments due on all mortgages or deeds of trust encumbering the property.

This bill would define "acquiring" for the purposes of this provision.

This bill would also provide that entering or remaining, or causing another to enter or remain, in specified dwellings for

the purpose of renting or leasing the dwelling without the consent of the owner or the owner's lawful agent is a misdemeanor. Because this bill would create a new crime, it would establish a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law does not specifically regulate Internet service providers.~~

~~This bill would impose certain requirements on Internet service providers with respect to access rates, as defined, including a requirement to disclose access rates for the most recent calendar quarter and a requirement to disclose service cancellation policies to subscribers. These provisions would be repealed on January 1, 2001.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ *yes*. State-mandated local program: ~~no~~ *yes*.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares all of~~
2 *SECTION 1. Section 890 of the Civil Code is amended*
3 *to read:*
4 890. (a) "Rent skimming" means using revenue
5 received from the rental of a parcel of residential real
6 property at any time during the first year period after
7 acquiring that property without first applying the
8 revenue or an equivalent amount to the payments due on
9 all mortgages and deeds of trust encumbering that
10 property. *For the purposes of this section, "acquiring"*
11 *means obtaining an interest in property by prescription,*
12 *occupancy, transfer, will, or succession, or taking*
13 *possession of property under a claim of title or by trespass.*
14 (b) "Multiple acts of rent skimming" means
15 knowingly and willfully rent skimming with respect to
16 each of five or more parcels of residential real property
17 acquired within any two-year period.

1   (c) "Person" means any natural person, any form of
2 business organization, its officers and directors, and any
3 natural person who authorizes rent skimming or who,
4 being in a position of control, fails to prevent another
5 from rent skimming.
6   *SEC. 2. Section 602.9 is added to the Penal Code, to*
7 *read:*
8   *602.9. Any person who enters or remains, or causes*
9 *any other person to enter or remain, in any*
10 *noncommercial dwelling house, apartment, or other such*
11 *dwelling for the purpose of renting or leasing to another*
12 *the house, apartment, or other such dwelling, without the*
13 *consent of the owner or the owner's lawful agent, is guilty*
14 *of a misdemeanor punishable by imprisonment in a*
15 *county jail not exceeding six months, or by fine not*
16 *exceeding two thousand five hundred dollars ($2,500), or*
17 *both.*
18   *SEC. 3. No reimbursement is required by this act*
19 *pursuant to Section 6 of Article XIII B of the California*
20 *Constitution because the only costs that may be incurred*
21 *by a local agency or school district will be incurred*
22 *because this act creates a new crime or infraction,*
23 *eliminates a crime or infraction, or changes the penalty*
24 *for a crime or infraction, within the meaning of Section*
25 *17556 of the Government Code, or changes the definition*
26 *of a crime within the meaning of Section 6 of Article*
27 *XIII B of the California Constitution.*
28   *Notwithstanding Section 17580 of the Government*
29 *Code, unless otherwise specified, the provisions of this act*
30 *shall become operative on the same date that the act*
31 *takes effect pursuant to the California Constitution.*
32 ~~the following:~~
33 ~~(a) Consumers of Internet access services have~~
34 ~~experienced poor service and frustration in their~~
35 ~~attempts to obtain restitution for poor service from~~
36 ~~Internet service providers.~~
37 ~~(b) The attorneys general of 37 states, including~~
38 ~~California, have entered into a settlement relative to~~
39 ~~consumer complaints over access rates with one of the~~
40 ~~largest Internet service providers.~~

1   (c) Consumers of Internet access services deserve
2   protection from poor service and false or misleading
3   advertising regarding service, and deserve timely
4   refunds when Internet service providers fail to provide
5   service as promised.
6   SEC. 2. Chapter 26.5 (commencing with Section
7   22765) is added to Division 8 of the Business and
8   Professions Code, to read:
9
10   CHAPTER 26.5. INTERNET SERVICE PROVIDERS
11
12   22765. For purposes of this chapter:
13   (a) "Access rate" means a combined measure using
14   standard industry performance criteria including, but not
15   limited to, (1) call failure rate at dial up because of busy
16   signals or no answer, (2) modem connection speed, (3)
17   log in time, and (4) download times for web pages.
18   (b) "Internet" means the global information system
19   that is logically linked together by a globally unique
20   address space based on the Internet Protocol (IP), or its
21   subsequent extensions; and is able to support
22   communications using the Transmission Control
23   Protocol/Internet Protocol (TCP/IP) suite, or its
24   subsequent extensions, or other IP-compatible protocols;
25   and provides, uses, or makes accessible, either publicly or
26   privately, high level services layered on the
27   communications and related infrastructure described
28   herein.
29   (c) "Internet service provider" means a person
30   offering either commercial or residential Internet access
31   services to at least 10,000 customers in this state.
32   (d) "Peak period" means the period of time each day
33   from 5 p.m. to 11 p.m., Pacific time.
34   22766. (a) (1) An Internet service provider shall
35   notify its subscribers when its access rate falls below 70
36   percent. The notification shall be by mail sent through
37   the United States Postal Service or by electronic mail, and
38   by bulletin posted on the Internet service provider's web
39   site.

1 (2) An Internet service provider shall disclose its
2 access rate for the most recent calendar quarter when
3 marketing its services to the public in or on any
4 advertising medium, including, but not limited to, print,
5 television, radio, or the Internet.
6 (3) An Internet service provider shall post its access
7 rate for the most recent calendar quarter via bulletin on
8 its Internet web site or at another location on the Internet
9 that is accessible to the public.
10 (b) An Internet service provider shall notify its
11 subscribers of its service cancellation policies, which shall
12 include the options of canceling service by telephone, or
13 by mail sent through the United States Postal Service or
14 by electronic mail. The notification provided to
15 subscribers shall be by mail sent through the United
16 States Postal Service or by electronic mail, and by bulletin
17 posted on the Internet service provider's web site.
18 22767. This chapter shall remain in effect only until
19 January 1, 2001, and as of that date is repealed, unless a
20 later enacted statute, that is enacted before January 1,
21 2001, deletes or extends that date.

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